

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF DELAWARE

3 SWIRLATE IP LLC,)
4 Plaintiff,)
5 v.) C.A. No. 22-235-CFC

6 QUANTELIA, INC.,)
7 Defendant.)

8 SWIRLATE IP LLC,)
9 Plaintiff,)
10 v.) C.A. No. 22-249-CFC

11 LANTRONIX, INC.,)
12 Defendant.)

16 Wednesday, September 18, 2024

17 1:00 p.m.

Hearing

19 844 King Street
20 Wilmington, Delaware

21 BEFORE: THE HONORABLE COLM F. CONNOLLY
22 United States District Court Judge

1 APPEARANCES:

2

3 CHONG LAW FIRM, PA
4 BY: JIMMY C. CHONG, ESQ.

5 -and-

6 BY: DAVID R. BENNETT, ESQ.

7 Counsel for the Plaintiff Swirlate

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10 FINGER & SLANINA LLC
11 BY: DAVID L. FINGER, ESQ.

12 Counsel for IP Edge, Mavexar and
13 Ms. Gamez

14

15 P R O C E E D I N G S

16

17 (Proceedings commenced in the courtroom beginning at
18 1:00 p.m.)

19 **THE COURT:** Good afternoon. Please be seated.

20 Let me get my computer up and running, and we can start.

21 All right. Good morning. So I've got a
22 sign-in sheet. The only lawyer who signed is Mr. Finger,
23 who is representing Ms. Gamez?

24 **MR. FINGER:** Yes, Your Honor.

25 **THE COURT:** That's who you represent,

1 individually?

2 **MR. FINGER:** Yes.

3 **THE COURT:** Do you represent anybody else
4 associated with this case?

5 **MR. FINGER:** Yes.

6 **THE COURT:** Who else do you represent?

7 **MR. FINGER:** IP Edge and Mavexar.

8 **THE COURT:** So you represent IP Edge and
9 Mavexar and Ms. Gamez in her individual capacity?

10 **MR. FINGER:** That's correct.

11 **THE COURT:** All right. And then what about
12 Swirlate?

13 **MR. FINGER:** I do not.

14 **THE COURT:** All right. And this Mr. Chong I
15 see, and I guess right now you are still counsel of record
16 for Swirlate; is that right?

17 **MR. CHONG:** That's correct, Your Honor.

18 **THE COURT:** And then you're Mr. Bennett?

19 **MR. BENNETT:** Yes, Your Honor.

20 **THE COURT:** And you now are counsel of record
21 for Swirlate?

22 **MR. BENNETT:** Yes, Your Honor.

23 **THE COURT:** All right.

24 Mr. Bennett, the production of documents that
25 was made most recently still has redacted documents. Is

1 that intentional?

2 **MR. BENNETT:** No, Your Honor. I thought I
3 reviewed, went through all the pages. If you tell me
4 which pages, I can...

5 **THE COURT:** We will. Do you have the
6 production with you?

7 **MR. BENNETT:** A paper copy of it?

8 **THE COURT:** Or if you have access to a
9 computer, do you have access to the production?

10 **MR. BENNETT:** Yes.

11 **THE COURT:** I mean, I want to run through the
12 documents that remain redacted that have not been produced
13 consistent with the order.

14 **MR. BENNETT:** Yes, Your Honor.

15 **THE COURT:** Okay.

16 **MR. BENNETT:** If you can tell me, I can look at
17 them.

18 **THE COURT:** Let's see. Well, let's see. It's
19 525 through 527 is my recollection.

20 Is that right?

21 All right. So the first page is 535, and then
22 there are redactions on Page 652 to 657. 657 is, in its
23 entirety, redacted. And there are other redactions.

24 Was that intentional?

25 **MR. BENNETT:** No, Your Honor.

THE COURT: Okay. Is there a way for you to quickly produce those while this hearing is going? Can you get somebody to bring those documents over?

MR. BENNETT: Possibly, I can get them on a flash -- actually, I don't have a flash drive with me.

So what were the pages again, Your Honor?

THE COURT: Page 535, 652 to 657, and we don't have any page number of 537 in either the original production or in the most recent production. I'm going to assume that's just an oversight.

MR. BENNETT: Yeah, I would assume it is an oversight, or I'll have to look back and see if there was ever a document that had that page number.

THE COURT: All right. So then, can you produce them forthwith? And I'm glad to hear that that was not intentional.

Secondly, why don't you stand up, Mr. Bennett.
Come on up to the podium.

I don't see any e-mails or texts regarding before April 15 of 2000. And yet by the context of the e-mails, it seems, between you and folks from IP Edge and Mavexar, it seems clear that you were already working on the cases before the creation of Swirlate. By the "cases," I mean the patents and the potential for patent infringement litigation.

1 || Do you dispute that?

8 But I'm not sure what Your Honor is asking for.
9
10 I did the searches. To the extent there was documents I
11 understood were relevant, I produced them, or responsive,
12 I produced them.

12 If you think there's something missing, you can
13 ask me and I'll go back. I don't communicate with clients
14 by text. So...

15 **THE COURT:** Well, in this case, you didn't
16 communicate -- I don't see any communications between you
17 and Ms. Gamez.

23 **MR. BENNETT:** No. I'm not sure I understand
24 your question. She is the owner of Swirlate, and then...

9 || MR. BENNETT: No, Your Honor.

10 **THE COURT:** That's what you said. That's
11 actually what you said.

12 MR. BENNETT: I misspoke.

13 | **THE COURT:** And I don't --

14 **MR. BENNETT:** She's signing things on behalf of
15 Swirlate. Mavexar is an agent for Swirlate, so I'm sorry
16 if I misspoke before.

17 || **THE COURT:** Who is the client?

18 MR. BENNETT: Swirlate.

20 MR. BENNETT: I mean, my client is Swirlate.

21 THE COURT: Excuse me?

22 **MR. BENNETT:** My client is Swirlate. I don't,
23 you know.

1 conflicts for Ms. Gamez or Ms. Swirlate.

2 Did you run conflicts? Did you run Ms. Gamez's
3 name through your conflicts database at the firm?

4 **MR. BENNETT:** I'm the sole attorney at the
5 firm, so a review -- look at Ms. Gamez and look to see if
6 I've had any work with Ms. Gamez before.

7 **THE COURT:** When you say you are the "sole
8 attorney at the firm," how long has this firm existed?

9 **MR. BENNETT:** Maybe 2011. I'll have to go back
10 and look. 2011 to 2013.

11 I do have an associate now for the past, I
12 think, three years, two-and-a-half years, full-time
13 associate, but prior to that time, I was a sole
14 practitioner.

15 **THE COURT:** Do you have a computer to run
16 conflicts searches every time you take on a new case, or
17 do you just do it based on your recollection of prior
18 clients? How do you run conflicts?

19 **MR. BENNETT:** I would typically do a computer
20 search.

21 **THE COURT:** Okay. So did you do a computer
22 search in this case to ensure that you had no conflicts
23 taking on a representation of Swirlate or Ms. Gamez?

24 **MR. BENNETT:** That would be my procedure. I do
25 not have a specific recollection.

THE COURT: Okay. And do you have any staff employed by your firm? And, actually, I should say, did you in 2020?

MR. BENNETT: No.

THE COURT: So you would personally run conflicts?

MR. BENNETT: Yes, Your Honor.

THE COURT: On your computer?

MR. BENNETT: Yes, Your Honor.

THE COURT: So I'm going to direct you to maintain your records such that a third party could look at your computer to see if, in fact, you ran conflicts for Ms. Gamez and Swirlate before you took on this representation.

MR. BENNETT: I will maintain my computer. It is not the same computer that I would have had back in 2000. I have a computer that is about two years old now, or three years old.

THE COURT: What did you do with your other computer?

MR. BENNETT: I take all of the data, put it on the new computer, and then wipe the old computer.

THE COURT: So then, all of the data should be on your new computer if that's what you do, correct?

MR. BENNETT: I don't know if search data would

1 be transferred. I do not know.

2 **THE COURT:** Well, I'm directing you to preserve
3 the state of all of your computers so that, if necessary,
4 a third party could determine if you ran conflicts for
5 Ms. Gamez and Swirlate.

6 As you sit here today, do you recall whether
7 you ran conflicts for Swirlate or Ms. Gamez before taking
8 on this representation?

9 **MR. BENNETT:** As I said, that would be by
10 procedure; I do not have a specific recollection.

11 **THE COURT:** All right. Anything else you wish
12 to say?

13 **MR. BENNETT:** Yes, Your Honor.

14 I guess, with respect to the motion for
15 modification that we filed that's pending before Your
16 Honor, at least for the purposes of determining the scope
17 of the evidence that's being used for the hearing, would
18 the Court disclosure whether it has returned
19 attorney/client privilege.

20 **THE COURT:** I had reviewed it before you filed
21 your motion.

22 Your motion is denied as moot in part, and it's
23 denied as meritless in all other respects.

24 **MR. BENNETT:** Okay. And then the additional
25 question is the request -- so the entire thing, including

1 the request to seal the courtroom to the extent it's an
2 ethical investigation, is that -- you're saying that's
3 denied also, correct?

4 **THE COURT:** I'm not going to phrase it that
5 way. I'm not going to allow you to manipulate, by your
6 wording, what's going on here.

7 But insofar as you asked to seal the courtroom,
8 that request is denied.

9 **MR. BENNETT:** Okay. Thank you, Your Honor.

10 **THE COURT:** Ms. Gamez, would you like to take
11 the witness stand, please.

12 Would you please remain standing and raise your
13 hand.

14 Would you please state and spell your name.

15 **THE WITNESS:** Dina Gamez, D-I-N-A, last name
16 G-A-M-E-Z.

17 DINE GAMEZ, having been called as a witness, being
18 first duly sworn under oath or affirmed, testified as
19 follows:

20 EXAMINATION

21 **BY THE COURT:**

22 **Q.** Ms. Gamez, not your specific address, but, generally,
23 where do you live?

24 **A.** Sugarland, Texas.

25 **Q.** And what do you do for a living?

1 **A.** I'm a stay-at-home mom.

2 **Q.** How long have you been a stay-at-home mom?

3 **A.** For almost 14 years.

4 **Q.** What level of education do you have?

5 **A.** I have a bachelor's degree.

6 **Q.** Where did you go to college?

7 **A.** The University of Houston.

8 **Q.** And what did you major in?

9 **A.** International business.

10 **Q.** And how long have you -- the area that you described
11 you live in, is it close to Houston?

12 **A.** It is a suburb of Houston.

13 **Q.** How long have you lived there?

14 **A.** My whole life.

15 **Q.** Now, you are identified as the sole owner and member
16 and managing member of Swirlate. Is that accurate?

17 **A.** That's correct, yes.

18 **Q.** How did you come to become the owner of Swirlate?

19 **A.** It was presented to me as a business opportunity from
20 a friend.

21 **Q.** Now, who was that friend?

22 **A.** Linh Deitz.

23 **Q.** And how long have you known Linh Deitz?

24 **A.** At that time?

25 **Q.** Yes.

1 **A.** It had been about three years.

2 **Q.** Three years?

3 **A.** Yes.

4 **Q.** How did you meet her?

5 **A.** Our kids go to school together.

6 **Q.** And do you know her well?

7 **A.** I don't think well enough, no.

8 **Q.** Was she the person who presented the business
9 opportunity for you --

10 **A.** Yes.

11 **Q.** -- or to you?

12 And how did that come about? How did she present it?
13 When? Where? What do you remember?

14 **A.** We do a lot of volunteer work at the school, and I
15 mentioned wanting to go back to work because at that time
16 I had been a stay-at-home mom for, like, ten years. And
17 when I shared that with her, she presented the
18 opportunity.

19 **Q.** What did she say?

20 **A.** She says that she works for a consulting company that
21 helps monetize patents. And, you know, she explained,
22 like, their business model a little bit. I don't recall
23 exactly all the details that she gave me.

24 **Q.** What do you recall?

25 **A.** I remember her saying that, if I open up an LLC, that

1 her company would be able to help me acquire patents and
2 then monetize them.

3 **Q.** How do you monetize patents? Did she say?

4 **A.** Through litigation, by finding other companies that
5 are infringing on the patents.

6 **Q.** Can you remember anything else she said?

7 **A.** I remember asking her questions, because, you know, I
8 wanted to make sure I didn't see any red flags when she
9 was presenting it to me.

10 I asked her, like, how long has she been working
11 there? Like how many clients do they have? What's the
12 profit between those clients? And that's all I remember.

13 **Q.** Those are pretty sophisticated questions.

14 What did she say in response to those questions?

15 **A.** I don't remember the number of clients. I do
16 remember that the number of -- the number of the profits,
17 it was like very low, very high. I don't remember the
18 exact numbers, but I remember the one number being like a
19 double digit, and then the next number being like five
20 digits.

21 **Q.** One number being literally like \$10 or \$12?

22 **A.** Yes.

23 **Q.** And then the other number being?

24 **A.** I believe it was like 30,000; I don't remember
25 exactly the amount.

1 **Q.** And, you know, normally, when you do a business, you
2 have to do some investment first before you get returns?

3 **A.** Right.

4 **Q.** Well, I mean, here, what would you have to pay? Did
5 she explain that?

6 **A.** She explained that Mavexar would advance the money to
7 get started, and then they would recoup it once any
8 settlements were processed.

9 **Q.** And did you talk about the risks of doing this?

10 **A.** Yes, we did.

11 **Q.** And what did she say about that, what the risks were?

12 **A.** The risks would be mostly if a company would ask
13 me -- or, you know, me, as the owner, to go to court and,
14 you know, as a witness to be asked questions.

15 **Q.** And you talked about this before you decided to --

16 **A.** Yes.

17 **Q.** -- be the owner of Swirlate?

18 These are not discussions that occurred more
19 recently?

20 **A.** No, it happened before I agreed to opening the LLC.

21 **Q.** Did you have many discussions about this or just one
22 discussion?

23 **A.** We had one discussion, and then she gave me a copy of
24 the contract without the client's name on it. She asked
25 me to review it, and if I had any questions, I, you know,

1 I could ask her before continuing.

2 **Q.** And was the only risk she talked about the potential
3 for you to be a witness in court?

4 **A.** The other risk would be me owing money from the
5 advanced costs, but she says that, you know, she assured
6 me that they are very good, and they do their very best
7 not to put their clients in that position.

8 **Q.** Did you discuss whether Mavexar had ever had a client
9 that had lost money?

10 **A.** Yes.

11 **Q.** What did she say to that?

12 **A.** She said no.

13 **Q.** Did you ask her that? How did that come up?

14 **A.** I did ask her, yes.

15 **Q.** Are you married?

16 **A.** Yes.

17 **Q.** I don't know want to know the details of the
18 discussion with your husband, but did you discuss with him
19 before you agreed to sign on?

20 **A.** Yes, I did.

21 **Q.** And you were comfortable with the risks; is that
22 right?

23 **A.** Yes.

24 **Q.** So then what happened?

25 **A.** Then I let her know that I was interested, and, you

1 know, I asked her what I needed to do. I was under the
2 assumption that I would have to go out and do the LLC
3 myself, which I did research for that, and then, you know,
4 later when I told her I was ready, she said she would do
5 it for me.

6 **Q.** Okay. So she formed the LLC for you; is that right?

7 **A.** Yes.

8 **Q.** And has she formed any LLCs for you other than
9 Swirlate?

10 **A.** Yes, she did.

11 **Q.** How many?

12 **A.** I believe it was six other ones. I'm not sure if
13 that's the exact number, but off the top of my head, I
14 think it was six.

15 **Q.** Do they all still exist today?

16 **A.** No, they don't.

17 **Q.** Which ones exist today?

18 **A.** Only Swirlate.

19 **Q.** What happened to the others?

20 **A.** We had -- because of this situation, we had a
21 conversation, and I, you know, said that I wanted to shut
22 everything else down until I find out what happens with
23 this.

24 **Q.** Now, does Swirlate have a bank account?

25 **A.** No.

1 **Q.** Have you, has Swirlate made any money?

2 **A.** Yes.

3 **Q.** About how much money?

4 **A.** Total or?

5 **Q.** Sure. Total?

6 **A.** I would say about 30,000.

7 **Q.** All right. And has Swirlate paid taxes?

8 **A.** Yes.

9 **Q.** And did you fill out the tax forms?

10 **A.** I received tax forms from Mavexar, and my husband
11 handles the taxes, so I just gave him all the paperwork.

12 **Q.** All right. And so did you just directly deposit the
13 \$30,000 into your personal bank account?

14 **A.** Yes, but it wasn't like at once. It was a period of
15 three years, and we, you know, I would get, I guess the
16 profits every three months. So it's like small increments
17 deposited into my personal account, yes.

18 **Q.** And about how much money have you made from the other
19 five LLCs?

20 **A.** I don't remember.

21 **Q.** Well, is it more than a hundred dollars?

22 **A.** Yes.

23 **Q.** Is it thousands of dollars?

24 **A.** Yes.

25 **Q.** Tens of thousands?

1 **A.** No.

2 Swirlate, so far, has been the most profitable one.

3 **Q.** Did the other LLCs have lawyers?

4 **A.** Yes.

5 **Q.** Who were the lawyers?

6 **A.** I don't remember.

7 **Q.** Did they file lawsuits?

8 **A.** Yes.

9 **Q.** Where?

10 **A.** I don't remember.

11 **Q.** How many lawsuits?

12 **A.** I don't remember that either.

13 **Q.** More than ten?

14 **A.** Maybe around that.

15 **Q.** Now, are aware that the Court issued orders that
16 required Swirlate to produce documents?

17 **A.** Yes.

18 **Q.** Did you search your computer to see if you had any
19 documents in your possession?

20 **A.** Yes.

21 **Q.** That were covered by the order?

22 **A.** Yes, I did.

23 **Q.** Who asked you to do that?

24 **A.** Mr. Bennett.

25 **Q.** When did he ask you?

A. I don't remember the date.

Q. And did he ask you directly?

A. Yes, he did.

Q. Now, you filed and have settled a number of lawsuits in Swirlate's name, correct?

A. Correct.

Q. When did you first meet Mr. Bennett. Or, actually, when did you first speak with Mr. Bennett, either orally or directly through e-mail or texts or letters?

A. Back in 2022.

Q. 2022. So that's after you filed lawsuits in Swirlate's name; is that right?

A. Right.

Q. And you had settled lawsuits, or Swirlate, rather, had settled lawsuits prior to the first time you ever spoke with Mr. Bennett; is that true?

A. Yes.

Q. I'm going to show you what we'll mark as Exhibit 1.

A. Okav.

Q. All right.

(Exhibit 1 was marked for identification.)

BY THE COURT:

Q. It's Bates-stamped SW15, SW20. We'll hand it to you in a second.

A. Okay.

1 **Q.** So do you recognize this?

2 **A.** Yes.

3 **Q.** What is it?

4 **A.** This is the contract between Swirlate and Mavexar.

5 **Q.** What is it dated in the upper, right corner?

6 **A.** April 10, 2020.

7 **Q.** All right. And that's called the effective date of
8 the agreement; is that right?

9 **A.** Yes.

10 **Q.** On the last page, there are two signatures. Is that
11 your signature over Dina Gamez? How do you pronounce it?

12 **A.** Gamez.

13 **Q.** Gamez, thank you.

14 And it says it's date signed April 15. Did you sign
15 it?

16 **A.** Yes, I did.

17 **Q.** Did you sign it by hand or electronically? How did
18 you sign it?

19 **A.** I used Adobe Acrobat. It has a feature where you
20 can -- because I have a touch screen. My computer is a
21 touch screen, so I just signed it.

22 **Q.** The other signatory is Sanjay Pant, right?

23 **A.** Right.

24 **Q.** Have you ever met that person?

25 **A.** No.

1 **Q.** Have you ever spoken with that person?

2 **A.** We have exchanged a few e-mails.

3 **Q.** What does he do?

4 **A.** I'm not sure what he does.

5 **Q.** What have the e-mails you've exchanged with him been
6 about?

7 **A.** Usually, he's the one that sends me the text
8 documents for me to file taxes.

9 **Q.** Now, on Page 2 of this agreement under,
10 "Compensation," it says that the consulting company is
11 going to get 95 percent of the proceeds and the client
12 gets 5 percent; is that right?

13 **A.** Yes.

14 **Q.** And did you negotiate that or were you just told
15 that's what it was?

16 **A.** I did not negotiate; I accepted the terms.

17 **Q.** And you read the agreement?

18 **A.** Yes, I did.

19 **Q.** And did you ever consult with anybody before signing
20 the agreement, like a lawyer or anything like that?

21 **A.** No, I didn't.

22 **Q.** Now, there's another copy that was produced in the
23 file. So if you could pull up.

24 We will mark this as Exhibit 2.

25 **A.** Okay.

1 (Exhibit 2 was marked for identification.)

2 **BY THE COURT:**

3 **Q.** This is Exhibit 2. This is going to be SW46 through
4 SW51.

5 Do you recognize this?

6 **A.** No, I don't. Is it the same thing?

7 **Q.** Well, you're the witness. I don't know. I'm asking
8 you.

9 **A.** The only difference I see is the, this box right
10 here.

11 **Q.** Right. So the difference is this one doesn't tell
12 you what percentages the consulting company gets versus
13 Swirlate, right?

14 **A.** Right.

15 **Q.** But there's another difference. The date. What's
16 the effective date of this agreement?

17 **A.** The next day.

18 **Q.** April 11 of 2020.

19 Is it your signature on the back of that document?

20 **A.** Yes, it is.

21 **Q.** Do you know why you signed an agreement on April 10,
22 2020 that said Swirlate would get 5 percent, and then the
23 next day, you sign an agreement that doesn't have what
24 percentage you're going to get?

25 **A.** No, I don't.

1 **Q.** Now, the signature dates are also different. If you
2 look on the second document.

3 **A.** Uh-huh.

4 **Q.** The April 11 one, it says, "signed April 11," whereas
5 the document that's dated April 10 says, "signed
6 April 15."

7 Does that help refresh your recollection as to what
8 happened?

9 **A.** I don't know about the April 11. I know I signed on
10 April 15, because that's what I have in my, you know, the
11 documents I saved.

12 **Q.** Right. So you're confident that you signed the first
13 document or the document that has the 5 percent?

14 **A.** Yes.

15 **Q.** Do you remember ever seeing a document with your
16 signature on it that did not have the 5 percent?

17 **A.** No.

18 **Q.** We didn't see in the production an e-mail from you to
19 Mavexar sending a signed copy. Do you know how Mavexar
20 got the signed copy?

21 **A.** No.

22 (Exhibit 3 was marked for identification.)

23 **BY THE COURT:**

24 **Q.** Consistent with what you say, we do see what I'll
25 mark as Exhibit 3, which is SW38.

1 Now, this is Bates-stamped SW38. This appears to be
2 an e-mail from Linh Deitz to you. Is this your personal
3 e-mail?

4 **A.** Yes, it is.

5 **Q.** And she says, "Hello, Dina. Please see attached the
6 consulting agreement for your new company, Swirlate IP
7 LLC. I have also attached your certificate of formation
8 for your new company for your records. Also included is
9 an engagement letter with David Bennett who will be lead
10 counsel for your patent litigation cases. Can you please
11 sign and date both the consulting agreement and engagement
12 letter and send them back to me, please. Do not hesitate
13 to give me a call if you have any questions. Sincerely,
14 Linh Dietz."

15 And then it looks like there are attached, three
16 things. One is a consulting agreement, and it says "half
17 executed"; one is an engagement letter from Direction IP;
18 and then one is a certificate of formation.

19 Does that help refresh your recollection as to why
20 there would be two different consulting agreements, one
21 that doesn't have the percentages of how the money would
22 be split, and one that's dated April 11?

23 **A.** I do remember this e-mail. But it doesn't -- it
24 doesn't refresh my memory on the document that doesn't
25 have the compensation filled out.

1 **Q.** Now, it looks like you got an engagement letter on
2 April 15 from Linh Deitz for Mr. Bennett; is that right?
3 **A.** Yes.

4 **Q.** Now, had you heard of Mr. Bennett before this e-mail?
5 **A.** No.

6 **Q.** Did you read the engagement letter?
7 **A.** Yes, I did.

8 **Q.** Did you have any questions about it at the time?
9 **A.** No.

10 **Q.** Did you sign it?
11 **A.** Yes.

12 **Q.** And then what did you do with it?
13 **A.** I signed it. I saved a copy for myself, and I
14 e-mailed the signed document to Linh.

15 **Q.** Did you produce, did you give Mr. Bennett the e-mail
16 that you sent to Linh Deitz returning the signed
17 engagement letter?
18 **A.** No.

19 **Q.** Why not?
20 **A.** Linh used to take care of all the administrative
21 tasks that involved Swirlate.

22 **Q.** Right. But I thought I asked you. Let me just be
23 really clear. Did you independently go and search your
24 e-mails for documents that were covered by the Court's
25 orders for Swirlate to produce all of its relevant

1 documents?

2 **A.** Oh, Mr. Bennett sent me a copy of what was requested.

3 **Q.** Okay. So it covered communications with regard to
4 engagement letters?

5 **A.** Uh-huh.

6 **Q.** But it sounds like you did not produce your e-mail to
7 Ms. Deitz?

8 **A.** Oh, I didn't?

9 **Q.** Well, I'm asking you. Did you?

10 **A.** I remember going through it, and everything that I
11 found --

12 **Q.** Did you send Mr. Bennett the e-mails?

13 **A.** -- I sent it to Mr. Bennett, yes.

14 **Q.** Okay.

15 **THE COURT:** Mr. Bennett, do you see anywhere in
16 the production where there are e-mails from Ms. Gamez to
17 Ms. Dietz?

18 **MR. BENNETT:** I'd have to go back and look at
19 the production, Your Honor.

20 **THE COURT:** Okay.

21 **MR. BENNETT:** I didn't withhold any documents
22 that I was provided by Ms. Gamez.

23 **THE COURT:** All right. Well, we don't have
24 that.

25

1 **BY THE COURT:**

2 **Q.** Now, so you signed this engagement on April 15.

3 **A.** Uh-huh.

4 **Q.** Now let's look at the engagement letter.

5 There are a couple copies produced in the production.

6 Let's look at the one.

7 What are we on Exhibit 4?

8 Exhibit 4 we'll call. And it's SW52 to SW59.

9 (Exhibit Number 4 was marked for identification.)

10 **BY THE COURT:**

11 **Q.** So do you recognize that?

12 **A.** Yes.

13 **Q.** All right. What is it?

14 **A.** It's the engagement letter with Mr. Bennett.

15 **Q.** Okay. Now, the subject line, what does it say?

16 **A.** The subject line?

17 **Q.** The RE line, sorry.

18 **A.** "Engagement letter and contingency fee agreement for
19 U.S. patent No. 7,154,961, 7,567,622, and related patents.

20 **Q.** All right. Did you know anything about these patents
21 when you received the letter?

22 **A.** No.

23 **Q.** The opening paragraph of the letter, which is
24 addressed to you, Ms. Gamez, it says, "I want to thank you

1 for selecting David R. Bennett, doing business as Direct
2 IP Law, to represent Swirlate IP LLC (client, you or your)
3 in certain patent licensing and enforcement actions
4 described below."

5 That's a fair reading?

6 **A.** Yes.

7 **Q.** And then the third paragraph says, "Client
8 represents," and the client, that's you, right? That's
9 Swirlate?

10 **A.** Right.

11 **Q.** "Client represents it is the sole and exclusive owner
12 and has full authority and right to license, sublicense,
13 and prosecute an infringement action, including the right
14 to collect both past and future damages royalty for" the
15 two patents that you just mentioned, and I will use the
16 last three letters, numbers, "the '961 and '622 patents."

17 That's what it says?

18 **A.** Yes.

19 **Q.** Now, on the last page, you signed the letter on
20 April 15, 2020, right?

21 **A.** Yes.

22 **Q.** Is that accurate? Is that your signature?

23 **A.** Yes.

24 **Q.** Was Swirlate the sole and exclusive owner that had
25 full authority and right to license, sublicense, and

1 prosecute any infringement actions for these two patents
2 as of April 15, 2020?

3 **A.** I don't recall. I would have to see the patent
4 assignment.

5 **Q.** Let me show you that, at least what's been produced.
6 This is Exhibit 5.

7 (Exhibit Number 5 was marked for identification.)

8 **BY THE COURT:**

9 **Q.** It's SW21, to SW24. And the way it's produced as my
10 clerk gets it for you, you will see, it looks like, but I,
11 frankly, can't be positive, that the SW24 may be an
12 e-mail. Well, it's an e-mail which attached an
13 assignment. So it may be that these should have been
14 produced in the opposite order. Let's give it to you and
15 ask.

16 So why don't you look, first of all, as SW24. That
17 is an e-mail from Linh Deitz to you, correct?

18 **A.** Yes.

19 **Q.** And what does it say?

20 **A.** "Hello, Dina. Please see attached the assignment
21 agreement between Intertechnology Global LLC and Swirlate
22 IP LLC. These are the patents that are being assigned to
23 your entity. Can you please sign and date the agreement
24 and send it back to me."

25 **Q.** And then it's got an attachment; looks like a PDF,

1 correct?

2 **A.** Yes.

3 **Q.** And, now, what's the date of the e-mail?

4 **A.** It's April 22, 2020.

5 **Q.** At 10:27 p.m., right?

6 **A.** Uh-huh.

7 **Q.** So this is seven days after she sends you the
8 engagement letter, correct?

9 **A.** Yes.

10 **Q.** And it's seven days after you signed the engagement
11 letter with Mr. Bennett's firm; is that right?

12 **A.** Right.

13 **Q.** So, in fact, you didn't own, Swirlate did not own
14 these patents as of the time it entered an engagement with
15 Mr. Bennett to prosecute these two patents; fair to say?

16 **A.** Yes.

17 **Q.** And the assignment, it looks like, is what's attached
18 as SW21 through SW23; is that right?

19 **A.** Yes.

20 **Q.** And it's a patent assignment between Intertechnology
21 Global and Swirlate; is that right?

22 **A.** Right.

23 **Q.** And it looks like it's transferring all right, title,
24 and interest in a number of patents that are listed there;
25 is that right?

1 **A.** Right.

2 **Q.** And you signed this?

3 **A.** Yes.

4 **Q.** And when did you sign it?

5 **A.** On April 22.

6 **Q.** Now, the person who signed on behalf of
7 Intertechnology Global is named Tri Lam.

8 Do you know that person?

9 **A.** No, I don't.

10 **Q.** Never heard of that person?

11 **A.** No.

12 **Q.** Have you ever had any discussions with Ms. Dietz
13 about this person, Tri Lam?

14 **A.** No.

15 **Q.** Do you have any questions, period, or are you just
16 signing off on stuff?

17 **A.** I was -- I would, you know, take a look at it.

18 **Q.** And, actually, in fairness, I don't know. You know,
19 there's been a lot of less than fully candid things said
20 to the Court and put in front of the Court in this case,
21 and you're under oath. So all I want are the honest
22 answers.

23 **A.** Right.

24 **Q.** So did you have any questions for Ms. Deitz with this
25 document or did you just sign off on it?

1 **A.** I was just signing off on it.

2 **Q.** Now, let's go back to the engagement letter. On
3 Page 2 of the engagement letter, the second paragraph, it
4 says, "The parties have discussed strategy for potential
5 litigation on the patent portfolio."

6 And "the parties" here are Swirlate and the Bennett
7 firm, through the Direction IP law firm, right?

8 **A.** Well, in this case, I would interpret Mavexar because
9 they are the consulting company and Mr. Bennett.

10 **Q.** Where does it say anywhere in this letter that the
11 parties are anything other than Swirlate and the client?

12 **A.** I'm not understanding your question.

13 **Q.** Well, in other words, we started, we looked at the
14 opening sentence of the letter, and it says, "I want to
15 thank you for selecting David Bennett doing business as
16 Direction IP law to represent Swirlate LLC." And it puts
17 in parentheses, "client, or you or your."

18 And the agreement, who are the parties that signed
19 the agreement?

20 **A.** Me and Mr. Bennett.

21 **Q.** Right.

22 **A.** But Mavexar was acting as my agent in this case.

23 **Q.** Right. And, in fact, all of your communications with
24 Mr. Bennett until after these hearings started when the
25 Court raised questions, were exclusively only through

1 Mavexar; is that right?

2 **A.** Yes.

3 **Q.** Okay. So, for instance, let me ask you this, at any
4 time, did Mr. Bennett or anyone from Direction IP Law talk
5 to you directly to obtain your consent to have Mavexar be
6 your agent?

7 **A.** No.

8 **Q.** At any time, did anyone from Direction IP Law talk to
9 you to tell you what the risks were associated with
10 consenting to Mavexar acting as your agent?

11 **A.** No.

12 **Q.** At any time, did anyone from Direction IP Law tell
13 you directly that your interests and the interests of
14 Swirlate may not perfectly coincide with Mavexar's
15 interest?

16 **A.** No.

17 **Q.** And that's because at no time did you ever
18 communicate directly with Mr. Bennett or his law firm,
19 correct?

20 **A.** Correct.

21 **Q.** Yet cases were settled and filed on behalf of
22 Swirlate; even though, you never had those discussions,
23 correct?

24 **A.** Right.

25 **Q.** Now, on Page 3 of the letter, in the first full

1 paragraph there, it says, quote, "No settlement will be
2 made without client's consent," unquote, correct?

3 **A.** Right.

4 **Q.** That didn't happen, correct?

5 **A.** I would get the settlement agreements.

6 **Q.** Right. But you would get them through Mavexar; is
7 that right?

8 **A.** Yes.

9 **Q.** And then there's this sentence. Well, let me just
10 ask you before I ask you about this sentence.

11 Was it your understanding that Mr. Bennett had a
12 relationship with Mavexar?

13 **A.** Yes.

14 **Q.** So on the bottom of Page 5, in this engagement
15 letter, it says, quote, "You are informed that the
16 Illinois Rules of Professional Conduct of 2010 require
17 your informed written consent before I may begin to
18 represent you when I have or had a relationship with any
19 party interested in the subject matter of my proposed
20 representation of you. At this time, Direction IP is not
21 aware of any relationship with any other party interested
22 in the subject matter of my services to you under this
23 agreement," unquote.

24 Is that what the letter says?

25 **A.** Yes.

Q. So you signed this letter, and seven days later you signed the assignment to get the patents transferred to Swirlate; is that right?

A. Right.

Q. Now, has Swirlate ever owned anything else besides those patents?

A. **No.**

Q. I'm going to show you Exhibit 6, which is SW27.

(Exhibit Number 6 was marked for identification.)

BY THE COURT:

Q. Do you recognize that?

A. Yes.

Q. What is it?

A. It is an e-mail from Linh with an engagement letter for Mr. Chong to represent in a local case.

Q. All right. And that's dated Friday, April 17, correct?

A. Yes.

Q. Now, there's someone copied on it. It says, "Brandon at ipedae.com.

Do you know who that is?

A. No, I don't.

Q. Did you talk to anyone other than Linh Deitz from Mavexar?

A. No. She was the only person that I talked to.

1 **Q.** And you said you did have some direct communications
2 with Sanjay Pant where financials or --

3 **A.** Yes, tax forms.

4 **Q.** -- tax forms were sent?

5 **A.** Yes.

6 **Q.** Other than that, did you have any direct
7 communications, that you remember, with anyone else?

8 **A.** I had communication with -- are you asking before you
9 scheduled a hearing?

10 **Q.** That's a really good question.

11 Let's start with before I scheduled a hearing, had
12 you ever had any communications with anybody other than
13 Linh Deitz?

14 **A.** No.

15 **Q.** But things changed after the hearing?

16 **A.** Yes.

17 **Q.** And then you started having communications with, in
18 particular, Papool Chaudhari, right?

19 **A.** I didn't communicate directly with him, no.

20 **Q.** You never had e-mails with him?

21 **A.** Sometimes he would send e-mails informing me about
22 stuff.

23 **Q.** Well, that's a communication with him?

24 **A.** Okay. I meant, like I -- I was interpreting as an
25 exchange.

1 **Q.** I see.

2 And that's a good point. So, for instance, he sent
3 you a transcript of a hearing held in this courtroom for
4 you to read, correct?

5 **A.** Right.

6 **Q.** And he prepped you, did he not, or was going to prep
7 you for a hearing in December of 2020, correct?

8 **A.** He was present at the meetings with myself and
9 Mr. Bennett, but he was just -- he didn't say much. It
10 kind of seemed like he was just there observing.

11 **Q.** Did he prep you for today?

12 **A.** No.

13 **Q.** Did he participate in any kind of prep session for
14 you today?

15 **A.** No.

16 **Q.** Have you ever had conversations with him?

17 **A.** No.

18 **Q.** Was the deal you had with Mavexar for the other LLCs,
19 that you also got 5 percent?

20 **A.** Yes.

21 **Q.** It was always 5 percent?

22 **A.** Yes.

23 **Q.** And we were talking about the e-mail from Papool to
24 you. Let's mark that as Exhibit 7, which is SW215.

25 (Exhibit 7 was marked for identification.)

1 **BY THE COURT:**

2 **Q.** Do you know anything about Papool Chaudhari?

3 **A.** No.

4 **Q.** Do you know what he does for a living?

5 **A.** No.

6 **Q.** Do you know if he's a lawyer or not?

7 **A.** No.

8 **Q.** At any time, did he or anybody else explain what his
9 role in this whole thing was?

10 **A.** No.

11 **Q.** While we are waiting for this, let me ask you another
12 question, because I think you've been very candid. You
13 were asked or you stated that you agreed to let Mavexar be
14 your agent in dealing with the lawyers; is that fair?

15 **A.** Yes.

16 **Q.** What do you think is more accurate, that you
17 consented to let Mavexar be your agent with the lawyers,
18 or you consented to let your name be used with Swirlate,
19 so that Mavexar could work with the lawyers to make as
20 much money as they could with these patents?

21 **A.** Can you repeat that?

22 **Q.** Yeah. What do you think is more accurate, that you
23 consented to let Mavexar be your agent to communicate with
24 the lawyers, the lawyers being Swirlate's lawyers, or that
25 you consented to be the named owner of Swirlate, so that

1 Swirlate could be used by Mavexar and the lawyers to make
2 as much money as they could and give you 5 percent of the
3 proceeds?

4 What do you think is really more accurate?

5 **A.** I think them being my agent.

6 **Q.** Being your agent in what way?

7 **A.** In being a consulting company for Swirlate to
8 monetize the patents that were assigned to it.

9 **Q.** Even though they made 95 percent of the money and
10 Swirlate made 5 percent?

11 **A.** That's correct.

12 **Q.** You don't think that's really what you think, that
13 they get 95 percent, but they're the agent, you're not
14 really their agent?

15 **A.** I'm not understanding.

16 **Q.** Well, normally, when people have, when they hire
17 somebody to do something for them to be their agent, they
18 don't take 95 percent proceeds.

19 **A.** Right. My opinion on that is that they do 99 percent
20 of the work, and, you know, I contribute 1 percent.

21 **Q.** Gotcha. What do you contribute?

22 **A.** I review the settlements. I know that I have --

23 **Q.** Well, when you review them, what do you review them
24 for?

25 **A.** I usually just go to the settlement amount.

1 **Q.** And what are you looking for? How do you decide if
2 it's a good settlement or a bad settlement?

3 **A.** I really I just search for what, you know, my
4 5 percent will be.

5 **Q.** And what's a good 5 percent versus a bad 5 percent?

6 **A.** In my case, it's something is better than nothing.

7 **Q.** Have you ever turned down a settlement agreement?

8 **A.** No, I haven't.

9 **Q.** So how do you decide, though, because you said
10 they're your agent, right? But you said, the 1 percent
11 you contribute, the first thing, it includes approving
12 settlement agreements; is that right?

13 **A.** Right.

14 **Q.** Yeah. So give me a sense of, well, you've never
15 turned down a settlement agreement. What's the lowest
16 settlement agreement you've ever approved?

17 **A.** I don't remember.

18 **Q.** What would inform your decision as to whether it was
19 a good settlement or a bad settlement in deciding whether
20 to approve it?

21 **A.** I would rely on Mavexar and the attorneys to, you
22 know, do that for me.

23 **Q.** Well, if that's the case, what are you contributing?

24 **A.** My name.

25 **Q.** Is there anything you contribute besides your name?

1 **A.** No.

2 **Q.** So this is an exhibit. It's dated November 8, 2022
3 this is after the hearings start, right?

4 **A.** Right.

5 **Q.** And it's from Papool Chaudhari, right?

6 **A.** Yes.

7 **Q.** It looks like it's to you, I guess. It doesn't have
8 your e-mail address, but do you recall receiving this?

9 **A.** I think if I did receive it, Linh must have forwarded
10 it to me.

11 **Q.** All right. Thank you very much. You may step down.

12 **A.** Okay. Thank you.

13 (Witness excused.)

14 **THE COURT:** All right. I am going to refer
15 Mr. Bennett to his bar's disciplinary counsel. I think
16 the record is very clear that he never obtained the
17 informed consent of Swirlate to file and settle lawsuits
18 on its behalf.

19 I will explore pending those resolution of bar
20 proceedings whether he should be allowed to practice in
21 this court. We typically defer to the state bar. I
22 imagine we will do that in this case, but I will confer
23 with the state bar to understand how long it thinks it
24 will take to adjudicate it.

25 I think there's overwhelming evidence that

1 Mr. Bennett has not complied with the rules of ethics.

2 It's troubling because I think it's very clear
3 that the interests that he was representing were Mavexar's
4 and IP Edge's, only secondarily Swirlate.

5 I still expect, Mr. Bennett, you to produce
6 forthwith, the unredacted copies.

7 Anything else you need to address?

8 **MR. FINGER:** Nothing from me, Your Honor.

9 **THE COURT:** Okay. All right. And then,
10 lastly, I will be referring these matters to the
11 Department of Justice consistent with what I did in the
12 Nimitz cases.

13 I think this court, PTO, and the defendants in
14 all these cases have been defrauded by not knowing who
15 were the real entities litigating these matters.

16 So we're adjourned. Thank you.

17 (The proceedings concluded at 2:09 p.m.)

18

19 CERTIFICATE OF COURT REPORTER

20 I hereby certify that the foregoing is a true and
21 accurate transcript from my stenographic notes in the
22 proceeding.

23

24

25

/s/ Bonnie R. Archer
Bonnie R. Archer, RPR, FCRR
Official Court Reporter
U.S. District Court

BY THE COURT: [9]

11/21 20/22 23/2
 24/23 27/25 28/11
 30/8 36/10 39/1
MR. BENNETT: [36]

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MR. CHONG: [1]

3/17

MR. FINGER: [7]

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THE COURT: [47]**THE WITNESS:** [1]

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22-249-CFC [1] 1/10**2:09** [1] 43/17**3****30,000** [2] 14/24
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anybody [4] 3/3

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anyone [5] 34/4

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APPEARANCES [1] 2/1**appears** [1] 25/1**approve** [1] 41/20**approved** [1] 41/16**approving** [1] 41/11**April** [19] 5/20

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